ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	
Policy and Rules Concerning the Interstate, Interexchange Marketplace	CC Docket No. 96-61
Implementation of Section 254(g) of the Communications Act of 1934, as amended	

COMMENTS

MCI Telecommunications Corporation (MCI) hereby submits these comments in response to certain requests made for reconsideration and/or clarification of the Commission's Report and Order in the above-captioned proceeding.[1] Therein, the Commission undertook to implement Section 254(g) of the Communications Act of 1934, as amended, by adopting rate averaging and rate integration requirements for application to interexchange carriers doing business in the United States.

Five parties requested reconsideration or clarification of the Commission's Report and Order.[2] MCI will respond herein to certain of the positions taken by US WEST, GTE, IT&E and

[1] FCC 96-331, rel. August 7, 1996 ("Phase 1").

[2] These are AT&T Corp. (AT&T), GTE Service Corporation (GTE), IT&E Overseas, Inc. (IT&E), the State of Hawaii and US West, Inc. (US WEST).

AT&T. To the extent it does not address other positions taken by these parties, or positions taken by the State of Hawaii, MCI's silence should not be interpreted to mean either acquiescence in, or disagreement with, those positions.

The Affiliate Question

GTE and US WEST contend that the Commission should not require rate integration across carrier affiliates.[3] MCI agrees. GTE's legal analysis of Section 254(g), in terms of the meaning of "provider," is compelling, as it shows that the statutory language and Congressional Conference Report do not support the broad interpretation subscribed to by the Commission in its Report and Order.[4] Thus, a more rational interpretation of Section 254(g) does not support a conclusion that the Congress intended the term to mean that all affiliated companies are one "provider" of interexchange service for the purpose of rate integration, as GTE notes. Thus, MCI submits, Congress did not intend "'provider' to include parent companies that, through affiliates, provide service ...."[5]

Additionally, on Guam, Western Union International, Inc. (WUI), a wholly-owned subsidiary of MCI, the parent company, is the service provider. WUI was acquired by MCI in 1982, and RCA Global Communications, Inc., another carrier that had a prominent presence on Guam, was acquired by MCI in 1988 and thereafter merged into WUI. Each of these two Guam

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[3] GTE at 1-11; US WEST at 1-7.

[4] GTE at 2-5.

[5] Report and Order at para. 69.

carriers, as distinct from MCI itself, had its own cost structure, influencing the rates charged WUI customers on Guam. Those cost structures bear no relationship to that of MCI.

It would be one thing if an entity -- unlike the case with the MCI companies -- were to undertake to establish subsidiaries to escape the rate integration obligation imposed now by law; however, it is quite another thing for an entity, based on historic fact and circumstance -- and without any goal to evade the rate integration obligation, to operate in the same state via affiliated entities or, as explained by GTE, where "no carrier provides two-way service to the offshore points discussed in the Report and Order."[6]

In any event, MCI submits that it would not do violence at all to Congressional intent, or the public interest for that matter, if the Commission were to "grandfather" existing affiliates and allow them to continue to provide services at rates that reflect their unique historic and other costs. At a minimum, if the Commission were to decide nevertheless to require rate integration by "existing subsidiaries" whose reach of operations do not overlap and thereby involve the same markets, it should allow for an appropriate transitional period, say, three years, at least.

Regional Versus National Carriers

AT&T asks the Commission to reconsider its Report and Order and provide greater flexibility to national carriers so that they can compete effectively against regional carriers capable of providing services at lower rates reflecting lower regional costs, including essential

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[6] GTE at 7.

access.[7] It asks that the Commission forbear from applying the rate averaging requirement when national carriers are competing against regional carriers, many of which are large and well financed. MCI concurs fully in AT&T's position. Otherwise, the pro-competitive objectives of the new law will be frustrated because a class of carriers -- one that has taken on the responsibility to furnish services on a nationwide basis to all consumers -- will be denied the ability to initiate competitive undertakings or to respond to competition in the marketplace.

AT&T articulates the significant differences between nationwide and regional carriers when it explains the differing cost structures that affect each carrier-type,[8] and it then makes a compelling case for forbearance.[9] It thus becomes self-evident that denying carriers the flexibility "to meet competition" by hampering their ability to compete makes no sense at all and is flatly contrary to the purposes of the Act.[10]

Promotions Treatment

AT&T also asks the Commission to reconsider its decision to restrict geographically-

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[7] AT&T at 2-9. The problem cuts the other way as well. See IT&E at 4, wherein IT&E expresses concern about national carriers whose cost structures may be such that they can offer lower prices than regional carriers operating in high-cost areas, such as Guam.

[8] AT&T at 5-6.

[9] Id at 6-9.

[10] As MCI and several others have pointed out in this proceeding, there is a significant tension between geographic rate averaging, on one hand, and competition, on the other hand. If some competing carriers are constrained to include costs in their pricing that others do not incur because of their localized operations, they effectively will be eliminated from competing. In these instances, consumers lose, and the Nation's pro-competitive policies will suffer irreparably.

specific promotions to only 90-days.[11] The Commission, AT&T notes, has permitted geographically-targeted promotions to extend for lengthier periods -- as long as two years. Now, however, it apparently has determined that "a 90-day period ... is sufficient time ..., but not so long as to undermine the geographic rate averaging requirement."[12] AT&T points out, correctly, that this rule, which is neither mandated by statute nor consistent with past pro-competitive policies, "will place national carriers at a substantial disadvantage compared to regional carriers ...."[13]

MCI concurs in AT&T's position. Although promotions that are limited geographically are sometimes introduced as a part of "market tests" or "market trials," they often are introduced to respond to competition.[14] And, given the near-term prospect of existing national carriers being obliged to compete against regional carriers, some of which are or will be affiliated with dominant local exchange carriers, the use of promotions to compete will become an important competitive weapon.

Promotions, by their very nature, often are discriminatory in that they benefit only those who receive them. But, the Commission has satisfied itself that the "temporary" nature of promotions and the usual, insubstantial benefits they confer upon recipients do not rise to a level

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[11] AT&T at 9-11. See Report and Order at paras. 29-30.

[12] Id at 29.

[13] Id at 10.

[14] Furthermore, there is implicit in the Commission's action a determination that geographically-based promotions somehow favor consumers in low-cost areas rather than consumers in high-cost service areas. However, there is no basis to support this conclusion, as it is just as likely that the geographically targeted offerings would advantage consumers in high-cost areas.

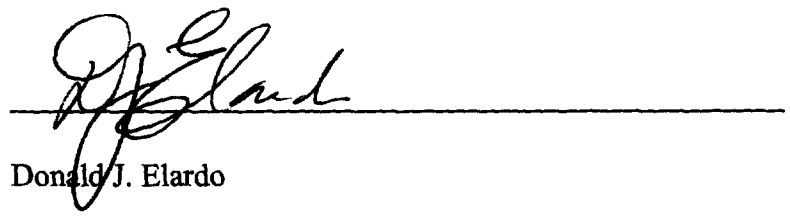
of violating the anti-discrimination provisions of Section 202(a) of the Communications Act. No less a conclusion should apply here; therefore, the Commission should reconsider its decision and allow geographically-oriented promotions to continue in effect for up to two years, as has been the Commission's policy in the past.

Conclusion

The Commission should take into account MCI's comments herein in addressing the positions taken by GTE, US West and AT&T.

Respectfully submitted,

MCI TELECOMMUNICATIONS CORPORATION

By: 

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Dated: October 21, 1996

CERTIFICATE OF SERVICE

I, Vernell V. Garey, hereby certify that the foregoing "COMMENTS", CC Docket No. 96-61 was served this 21st day of October, 1996, by mailing true copies thereof, postage prepaid, to the following persons at the addresses listed below:

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